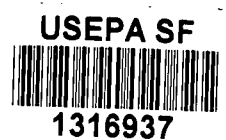


LDWSF  
12.3.129.2 v1  
01/29/10

## ATTACHMENT 20

American Civil Constructors West Coast, Inc.  
Response to Supplemental 104(e) Request (January 29, 2010)  
Lower Duwamish Waterway Superfund Site



## Dave Lemesany

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**From:** Dave Lemesany  
**Sent:** Thursday, October 01, 2009 6:40 PM  
**To:** Hal Hurlen (mailto:hlhurlen@hotmail.com)  
**Cc:** Jeff Rudolph; Ed Thornton; Robert F. Bakemeier  
**Subject:** 700 S. Riverside Seattle, WA  
**Attachments:** Ltr 09-24-09 Hal Hurlen re Plans and Issues.pdf

Hal, please find the attached communications documenting our recent discussions.

Regards

David L. Lemesany  
Vice President & Regional Manager  
American Civil Constructors, Inc.  
225 Union Blvd. Suite 500  
Lakewood, CO 80228  
303/730-4555 Lakewood Direct Phone  
206-764-8112 Seattle Direct Phone  
720/272-1699 Cell  
303/986-0746 Fax  
[dlemesany@accbuilt.com](mailto:dlemesany@accbuilt.com)  
[www.acconstructors.com](http://www.acconstructors.com)



October 1, 2009

Hal Hurlen  
21512 Miller Bay Road  
Poulsbo, Washington 98370

Re: ACC Environmental Reporting, Response Plans, Etc.

Dear Hal:

I write to put some closure on the various issues you have raised recently in various letters to me (e.g., August 7 and 14, 2009) and our recent meetings/discussions (including our meeting on September 24, 2009, at ACC's Seattle office involving you, your counsel Ken Lederman, Ed Thornton of ACC, ACC's counsel Robb Bakemeier, and me). I believe that our recent communications and this letter should resolve all pending issues you have raised. In particular:

**Hazardous Material Control Reports.** In your August 7, 2009, letter to me, you requested hazardous material control reports. I provided copies to you during our September 24 meeting. I believe ACC is now current on all reporting.

**Pilings from Kitsap Naval Base.** In your letters dated August 7 and 14, 2009, you requested the sampling data from the pilings ACC handled at the Seattle yard originating from the Kitsap Naval Base. I have provided that data to you, indicating that the pilings contained trace levels of arsenic that did not require special handling or disposal (5 ppm, compared to the Model Toxics Control Act regulatory limit of 20 ppm). We believe that ACC handled the pilings appropriately, and that the handling of the pilings at the Seattle yard (and their shipment off-site for disposal) did not contribute any arsenic to the Seattle yard (or the Duwamish Waterway).

**Concrete Deck Materials from Kitsap Naval Base.** I have explained to you that part of the Kitsap Naval Base project involved concrete deck materials, in addition to the pilings. Sampling of the concrete deck materials indicated that arsenic levels required special disposal at Rabanco. Accordingly, those materials were transshipped through ACC's Seattle yard very carefully and sent directly to Rabanco. Those materials were not stored or placed on the ground at the Seattle yard. We believe that the handling of those materials did not contribute any materials (or arsenic) to the Seattle yard (or the Duwamish Waterway).

Hal Hurlen  
October 1, 2009  
Page 2

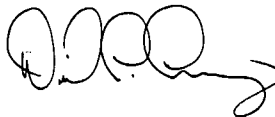
Proposed Seattle Yard Sampling. In your August 14, 2009, letter to me, you requested that ACC perform soil sampling at the Seattle yard to confirm that the handling of the pilings from the Kitsap Naval Base did not contribute arsenic to the soil. At our meeting on September 24 at the Seattle yard, I explained the handling and transshipment of the pilings and concrete deck materials as described above in this letter. We discussed the sampling data from those pilings and materials. We walked the yard together, and you observed the location where the pilings were temporarily located. I informed you that ACC had scheduled soil sampling to be accomplished by EMS later that same day. I also informed you that ACC was inclined to re-grade and re-gravel the yard, including the removal of some of the existing surface soil and gravel. After considering the situation and consulting with your counsel, you indicated that you did not believe that soil sampling was necessary and you approved the plan to re-grade and re-gravel the yard. Accordingly, I canceled the scheduled soil sampling.

Surface Soil/Gravel Re-Grade and Replacement. ACC has accomplished the re-grading of the yard. Existing surface soil and gravel was removed and shipped off site for recycling. New base and surface gravel has been installed to provide a better subsurface and working surface in the yard.

Updated Environmental Plans, Etc. As I have informed you previously, ACC retained SLR International (an environmental consulting firm) to assist us with the updating of environmental plans, training, and related matters for our Seattle facilities. We anticipate the finalization of those plans in the near future, and will provide you with copies of the appropriate materials as soon as they are ready.

If you have any questions or concerns about these (or other) matters, please contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read 'D. Lemesany', with a stylized flourish at the end.

David Lemesany

HARALD L HURLEN  
21512 MILLER BAY ROAD  
POULSBO, WASHINGTON  
98370

RECEIVED  
SEP 21 REC'D  
ACC

September 17, 2009

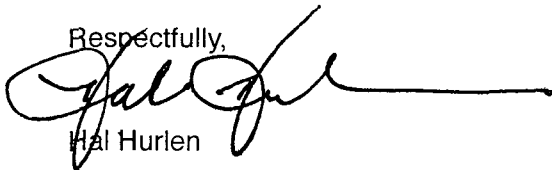
ACC West Coast  
PO Box 80945  
Seattle, WA 98108

Attn: Mr. Dave Lemansany  
Re: Seattle Operations

Dear Dave,

As a follow up to my e-mail message of today, I want to see a definitive schedule for implementing a current Hazardous Material Control Plan. I also want the residue of the contaminated piling that were demolished in the yard to be tested. Either you can arrange for this to be done, or if you are too busy, I can take care of it. It is extremely important to have this done quickly before any potential contaminants are washed into the river by rain. Finally, I cannot imagine how Nova will not release the results of their testing of the contaminated materials. My experience in this requires a chain of ownership be passed on from the generator of the material to its ultimate disposal location, also with the levels of contamination. I think you should remind the Nova Group of this responsibility and require them to release these results. Please let me know if you have received this letter and what your intentions are.

Respectfully,



Hal Hurlen

cc: Kate Julin  
Ken Lederman

HARALD L HURLEN  
21512 MILLER BAY ROAD  
POULSBO, WASHINGTON  
98370

August 14, 2009

ACC West Coast  
PO Box 80945  
Seattle, WA 98108

Attn: Dave Lemansany  
Re: Pier Bravo Piling

RECEIVED

AUG 21 REC'D

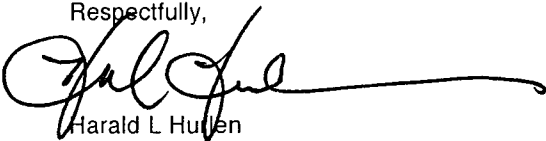
ACC

Dear Dave,

I am still waiting for the analyses of the piling being brought across my dock and demolished in my yard. As I stated earlier in my email dated 15 July, and in my concerns I mentioned at my visit to the yard, there were rumors along the waterfront that these piling had concentrations of arsenic and were not being accepted at other locations. You gave me assurances that this was not the case and showed me a document that showed only traces of arsenic present. You further stated you were meeting with people from the Nova Group who either did the testing or have the results of the testing and that you would forward those to me. That was several weeks ago. Despite your assurances and the fact this information is so slow getting to me, I will have to insist a complete soil test be done in the yard at the conclusion of this demolition, and if any arsenic is found it will have to be removed entirely. Should you not choose to do so, I will have to perform these tasks myself and charge you for these costs. I am sure you are aware of the fragility of the situation along the Duwamish River with the EPA and Department of Natural Resources looking for anyone to blame for the current state of the river. I surely do not want to be pointed out as a responsible party to the river's problems.

In the future, I wish to be informed by you should you decide to something like this again, rather than me hearing it from another marine contractor second hand and after the fact. Please acknowledge the receipt of this letter, and let me know if you will be acting as am asking you to do, or if I should be making arrangements on my own.

Respectfully,



Harald L Hurlen

cc: Kate Julin  
Ken Lederman  
Jeff Rudolph

American Civil Constructors

AUG 14 2009

HARALD L HURLEN  
21512 MILLER BAY ROAD  
POULSBO, WASHINGTON  
98370

Received


August 7, 2009

Dave Lemansany  
American Civil Constructors West Coast  
PO Box 80945  
Seattle, WA 98108

Dear Dave,


I have still not received a current Hazardous Material Control Plan nor a current quarterly Hazardous Material Control Report, as discussed, and as required by the Lease. You also promised to send the analyses for the piling which have some arsenic contamination which I believe you said was performed by Nova Group. Please forward all as soon as possible. I have enclosed a copy of a letter sent to the National Documentation Center inquiring about the release of lien on the St Helens.

Respectfully,



Hal Hurlen

cc: Ms. Kate Julin  
Mr. Ken Lederman

(F) Hal correspond  E-MAILED  
Lemansany 8/14